UNITED STATES COURTS
SOUTHERN DISTRICT OF TEXAS
FILED

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Thomas H. Padgett, Jr. tpadgett@bakpatlaw.com

July 10, 2006

Honorable Sim Lake III
United States District Court
515 Rusk Avenue
Courtroom 9B
Houston, Texas 77002

Re: Civil Action No. H-05-3455, *Ava Slaughter v. Jones Day*, In the United States District Court for the Southern District of Texas, Houston Division

Dear Judge Lake:

The plaintiff requests that the investigation, its notes, and conclusions are discoverable. David Williams, the attorney in question, was acting as a human resources director in response to an internal grievance properly filed by the plaintiff. The end result is not attorney advice, but was used to formulate the position statement provided to the EEOC as well as make a decision regarding the internal grievance filed by the plaintiff. See, Exhibit 1. (Plaintiff has excised the exhibits attached to the position statement as they are voluminous and not relevant to the issue. If the Court requires, they are available for transmission.)

Plaintiff is entitled to review and compare the investigation, its notes, the statement of witnesses, and any documentary evidence to the position statement. Variations in the statements made to the EEOC and the investigation will create credibility questions.

Legally, the defendants cannot cloak normal business decisions as attorney-client privileged merely because an in-house counsel was party to the communications. *Willy v. Admin. Review Board*, 423 F.23d 483 (5th Cir. 2005).

Of course, Plaintiff concedes that communications between a corporation's employees and in-house counsel can fall under the attorney-client privilege umbrella. Nonetheless, because in-house counsel may be involved in giving advice on many issues that are more business, rather than legal, in nature or may be involved in such discussions as a matter of course, communications in which in-house counsel is a participant are readily susceptible to challenge on the ground that it is business advice that is being given rather than legal advice. *Ames v. Black Entertainment Television*, 1998 U.S. Dist. LEXIS 8888, *10 (N.D. Ill. 1998). This is exactly the situation here – the

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attorney was acting as an investigator and as a spokesman for the defendant before the EEOC.

Finally, the defendant has not met its burden of proving the privilege. There is no statement from Mr. Williams as to what capacity he interviewed the witnesses. In addition, it is clear that the information that was obtained in the investigation was transmitted to the EEOC in the form of the position statement. There is no evidence at all provided by the defendant. From the state of the record, there is nothing supporting the assertion of a privilege for an attorney acting as a human resources investigator. Huie v. DeShazo, 922 S.W.2d 920, 923 (Tex. 1996) (holding that when an attorney is not providing legal advice and acting in some other capacity, accountant, investigator, or business advisor, there is no privilege; see also Seibu Corp v. KPMG L.L.P., 2002 U.S. Dist. LEXIS 906 (N.D. Tex. Jan 18, 2002).

Plaintiff requests that the Court order the production of the investigation, its conclusions, and all other materials related to the investigation.

Very truly yours,

Thomas H. Padgett, Jr.

Cc: w/enclosure
Shauna Johnson Clark
Fulbright & Jaworski, L.L.P.
1301 McKinney, Suite 5100
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JONES DAY

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May 14, 2004

VIA FedEx

Mr. Frank Zamarripa
Investigator
Equal Employment Opportunity Commission
Houston District Office
1919 Smith Street, 7th Floor
Houston, Texas 77002

Re: Ava Slaughter v. Jones Day
Charge # 330-2004-01431

Dear Mr. Zamarripa:

This letter serves as the position statement of Jones Day ("Jones Day" or the "Firm") in the above-captioned matter. As we understand the Charge, Ava Slaughter ("Ms. Slaughter" or "Charging Party") alleges that Jones Day discriminated against her in November 2003 when, in her words, she was "demoted" and "not selected for (the) position of GIS Manager, which (she) was already filling" in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C.A. § 2000e et seq. ("Title VII"), and the Texas Commission on Human Rights Act.

Ms. Slaughter's allegations are without merit. Jones Day is fully committed to its policy of equal opportunity. (See Equal Employment Opportunity Policy, copy attached hereto as Exhibit 1.) All of Jones Day's employment decisions with regard to Ms. Slaughter were made in accordance with this policy and were grounded in legitimate, non-discriminatory business considerations. More specifically, Ms. Slaughter was never demoted as she held the title of Technology Support Specialist, not GIS Manager as alleged. She was considered for the GIS Manager position in November 2003 but another person was selected who was better qualified in the judgment of five different individuals involved in the selection decision.

I. INTRODUCTORY STATEMENT

SLAUGHTER V. JONES DAY
JONES DAY 00001

This position statement is based on the undersigned's knowledge of the facts at this time. Jones Day continues to investigate the allegations set forth in Ms. Slaughter's Charge and reserves the right to present new or additional facts or arguments based on subsequently-acquired information or evidence. Moreover, this position statement, although believed to be true and correct in all respects, does not constitute an affidavit and is not intended to be used as evidence of any kind in any proceeding.

In addition, Jones Day considers the information set forth in this position statement to be privileged and confidential. See 29 C.F.R. § 1601.22. Accordingly, the Firm expects that the Equal Employment Opportunity Commission ("EEOC") will limit disclosure of the facts set forth in this statement to EEOC employees involved in the investigation and resolution of the discrimination charge. Jones Day specifically objects to the EEOC providing a copy of this position statement to the Charging Party. If the EEOC intends to disclose this position statement to the Charging Party, or to any person other than an employee of the EEOC, Jones Day requests that the EEOC provide advance written notice to us so that the Firm may pursue appropriate legal remedies to prevent such disclosure.

II. FACTUAL BACKGROUND

Jones Day is an international law firm with approximately 30 offices worldwide including an office in Houston, Texas. The Firm is a partnership devoted to providing legal representation and counsel, primarily to corporations and other business entities. A significant portion of the Firm's practice involves complex business transactions and major lawsuits which utilize the Firm's outstanding capabilities and skills. Jones Day is an equal opportunity employer and prohibits discrimination on the basis of sex, race, age, sexual orientation, color, religion, national origin, disability, marital status and all other characteristics protected by federal, state or local law. (See Exhibit 1.) In accordance with its EEO policy, Jones Day management personnel base all employment actions on legitimate business considerations and the qualifications of the individuals concerned.

A. Ms. Slaughter's Employment with Jones Day

With the combination of the former Houston firm of Bayko Gibson Carnegie Hagan & Schoonmaker ("Bayko Gibson") with Jones Day on January 1, 2001, Jones Day hired Ms. Slaughter, who had overseen Bayko Gibson's information technology support, as Technology Support Specialist at an annual salary of $60,000. Immediately prior to its combination with Jones Day, Bayko Gibson had been a firm of approximately 15 attorneys plus approximately 15 non-attorney staff members.[1] As of January, 2001, Jones Day's Houston office had 19 attorneys and 14 staff for a total of 33 personnel. This total personnel number increased to 52 as of January 2002, to 62 as of January 2003 and to 75 as of January 2004.

Ms. Slaughter's official title with the Firm has been Technology Support Specialist since January 2001, when it was entered into the Firm's data system.[2] While some may have referred to her as a "manager" at times, probably because she was the only GIS person in the Houston office until November 2003, the official records have always shown her title as Technology Support Specialist. Significantly, her 2001, 2002 and 2003 evaluation forms, all of which she saw and signed, carry that title as well. (See Exhibits 3, 4, 5.)

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[1] Bayko Gibson had been a somewhat larger firm in previous years, but still had fewer than 20 attorneys plus staff in 1998 and 1999.

[2] The entry form dated January 30, 2001 uses the title "Technical" Support Specialist but the 'Technology" title appears in the system and has been used on other official documents as noted in the text. (See Exhibit 2.)

While Ms. Slaughter has displayed good technical skills at Jones Day, significant performance deficiencies have been noted in a number of areas including, without limitation, meeting deadlines, being organized and setting priorities, and communicating within the Houston office and with other members of the GIS team throughout the Firm. As noted below, these deficiencies were apparent and noted from the outset and persisted throughout her service with Jones Day.

For example, on May 24, 2001, Kevin Richardson, the Houston Office Administrator and Ms. Slaughter's supervisor from March 2001 until November 2003, met with Ms. Slaughter to discuss her failure to follow-through on eight different requests in a timely way. Ms. Slaughter responded that she had not been reporting to anyone for the last 6 years at Bayko and that this type of reporting arrangement was new to her. (See Exhibit 6) Richardson had another discussion with her on June 18, 2001 regarding the need to keep him informed about the status of projects and completing requests in a more timely way. (See Exhibit 7)

Her first performance evaluation with Jones Day, prepared by Richardson and dated June 21, 2001, noted some technical strengths but emphasized specific deficiencies in the areas of communications, follow-through, response to pressure and changes, prioritization and punctuality, among others. Also included in the evaluation packet was Ms. Slaughter's self-assessment. Richardson's evaluation stressed that Ms. Slaughter "must let her actions speak on her behalf" with respect to "[t]imely follow through on work requests", "prioritiz[ing] work assignments" and ensuring "compliance with Firm approved ISS policies and procedures." (See Exhibit 3) As a result of the noted deficiencies, Ms. Slaughter received a below average salary raise of 2.5% or $1,500 to an annual salary of $61,500 effective July 1, 2001; the average staff raise in the Houston office was over 4% in 2001.

Ms. Slaughter's June 2002 evaluation reflected a marked lack of improvement in many of the areas highlighted by her prior evaluation. While noting some improvement as well as her hard work and technical proficiency, the 2002 evaluation continued to stress her need to improve in the areas of organizing, follow through, communication and punctuality. The evaluation stated, in part, as follows:

> "Ava needs to better organize her time - the technology requirements of a growing and dynamic office require a well organized GIS Department commensurate with other Jones Day offices. If Ava is better organized she will be in a better position to anticipate the needs of the office and respond proactively - better organization will provide for better time management. Additionally, Ava must consistently follow through with user requests and communicate such follow-up. The most effective way for me to support Ava is if Ava consistently communicates to me problems and/or issues affecting the Office." (See Exhibit 4; emphasis in original)

Also in the evaluation package were Ms. Slaughter's self-assessment and comments by partner attorney Michael Gibson. The latter noted that Ava "works very hard." Comments by senior associate attorney Jason Leif also noted that she "tries hard" but "often appears to be harried and unorganized" and stated his "concerns about her ability to handle a larger staff...." (See Exhibit

4) Based on this evaluation, effective July 1, 2002, Ms. Slaughter again received a below average salary raise of 2.9% or $1,800, to an annual salary of $63,300; in 2002, the average staff raise in the office for those who had been in the office for more than several months was about 3.9%.

Unfortunately, during the month of July 2002, even more significant problems with Ms. Slaughter's performance arose as she failed to meet deadlines on several different projects. A formal "Counseling Report" resulted, which warned her of possible discipline up to and including discharge if she did not correct these problems. (See Exhibit 8) This report highlighted the following problems:

> "On numerous occasions Ava has failed to complete assigned tasks in a timely fashion. Most recently, on July 13, 2002, Ava was asked to provide the Office Administrator with a memo regarding computer problems related to screensavers and other unauthorized software. She was requested to complete the memo within the 'next couple of days.' On July 22 Ava was sent an e-mail by the Office Administrator asking when the memo would be completed. On July 25 during a weekly meeting between Ava and the Office Administrator Ava was again asked the status of the memo. In response, Ava explained the memo would be completed by Friday, July 26. As of Monday, July 29 the memo has not been provided to the Office Administrator.
>
> "Additionally, on July 25 Ava was asked to provide the Office Administrator with a computer inventory by July 26, and to meet with the Office Administrator on July 26 to discuss future assignments of computers. As of July 29 the inventory has not been provided nor has the subsequent meeting been held." (See Exhibit 8)

In the meeting about the Counseling Report, Ms. Slaughter refused to sign the report and refused to listen to or discuss the counseling points. Instead, she wagged her finger at her supervisor and accused him of trying to "drive out" the former Bayko Gibson employees. (See Exhibit 9) A follow up meeting was held on August 8, 2002, in which the major points were again reviewed and apparently were received by Ms. Slaughter in a more professional manner. (See Exhibit 10)

While some improvement in follow through and punctuality were noted in the June 2003 evaluation, problems with organization, timely communication, and participation in Firm GIS activities continued to be noted by her primary evaluator, Mr. Richardson and by Mr. Terry Crum, Firm GIS Director. Input from Aaron Gard, a new associate attorney in the Houston office, noted Ms. Slaughter's responsiveness in helping him on a particular project with a client, and was also included in the evaluation package. (See Exhibit 5) Richardson's evaluation stated, in part, the following:

> "Ava is a hard worker with a solid understanding of computer hardware and related technology. Her technical skills notwithstanding, Ava continues to struggle to keep organized and to effectively and timely communicate with me, lawyers and/or staff. Both of these skills are paramount to effectively respond to the demands of a growing office. " (See Exhibit 5)

Terry Crum's evaluation noted Ms. Slaughter's commitment to "helping her users" but also noted that his organization would like to "see more input from Ava and greater participation on calls and projects" and that "the perception exists at the Firm level that she is unable to provide the leadership and organization needed to complete the work." (See Exhibit 5) For these reasons, Ms. Slaughter again received a below average raise of 2.4% or $1,500 to an annual salary of $64,800 effective July 1, 2003; average staff raises in the office were 3.4% in 2003.

Because Technology Support Specialist is a non-exempt title, Ms. Slaughter was paid time and one half for her work time over 37.5 hours per week resulting in total earnings for 2001 of $80,088.21, for 2002 of $85,386.82 and for 2003 of $81,027.80.

B. Jones Day's Information Technology Systems Organization and the Decision to Have a GIS Manager in Houston

During the period relevant to this charge, Jones Day's information technology systems department was called Global Information Systems or GIS. On March 18, 2004, the department was renamed Technology Support Services ("TSS"). It was and is comprised of a staff of technology specialists and managers, located primarily in the Firm's Cleveland, Ohio office, which provides general oversight, technology policy direction, coordination and centralized technology support, such as a 24 hour help-desk for all of the Firm's offices. In addition, each office also has one or more GIS (now TSS) employees located in the office, the number depending on the size and special needs of the particular office. The Firm normally adds a second person when the local office personnel to be supported reaches 80. In addition, a GIS (now TSS) Manager position is not normally created in an office until the larger headcount is reached.

Although the Houston office headcount was still below 80 in September 2003, it was decided that the planned move to new office space in November 2003 and the anticipated growth over the next few years[3] justified creation of a GIS Manager position at that time. The GIS Manager position for which she applied was classified as "exempt" and thus, was not eligible for overtime pay.

C. The Selection Process for the GIS Manager in Houston

Once it was decided that there would be a GIS Manager (now TSS Manager) in Houston, the position was posted in the Houston Office intranet. Sara White, Regional Manager, North America, GIS, was also informed of this fact.

In September 2003, Richardson advised Ms. Slaughter that a GIS Manager position would be created in the Houston office based on the office move planned for November and the anticipated growth of the office over the next year. Ms. Slaughter was informed of this before the job was posted in Houston on September 19. Kevin Richardson told her that she could and

[3] The Firm currently projects that it will have a headcount of between 85 and 95 in the Houston office by December 2004.

should apply if she were interested and felt qualified for the position. He did not discourage her from applying as she alleges.

The selection group for this position in the Houston Office were Hugh Whiting, Partner-in-Charge of the office, Kevin Richardson, Office Administrator, Scott Cowan, Partner and Mark Metts, Partner. Cowan and Metts were asked to join the selection process because they were heavy users of technology and had more IS background than most lawyers.

As the process unfolded, three candidates emerged: Ms. Slaughter; Jerri Del Riesgo, GIS Support Specialist in the Firm's Columbus, Ohio office; and Mary Adams, Technical Services Analyst in the Firm's Cleveland, Ohio office. The four selectors were provided with resumes and the 2002 and 2003 evaluations for each candidate as well as the Job Description for the GIS Manager position. (See Exhibit 11) Each selector then interviewed the candidates separately. The four then convened to discuss their rankings, with Cowan and Metts announcing their views before Whiting or Richardson.

All four selectors ranked Ms. Del Riesgo first and Ms. Slaughter last. In addition, before the selection was announced, Sara White, Regional Manager, North America, GIS, was asked to give her views about the selection of Del Riesgo. White told Richardson that Del Riesgo was qualified and capable of performing the job well, based on her own discussions with Del Riesgo about the GIS Manager job and her experience working with Del Riesgo on common projects. Although she was not asked to rank the candidates at that time, White would have ranked Del Riesgo first and Slaughter third.

Comparing Ms. Slaughter with Ms. Del Riesgo, a number of valid reasons supported the selection of Del Riesgo:

- Both candidates were viewed as hard workers and both had some supervisory experience. Neither had completed a 4-year college degree but both were deemed to have its equivalency in terms of work experience.

- Del Riesgo's 10 years' experience with the Firm was deemed more valuable than Slaughter's because Del Riesgo's service was all with Jones Day and in an office similar in size to what Houston expects to be. She also had experience as an IS user from her job as legal secretary. Ms. Slaughter had actually worked with Jones Day for less than 3 years, as her other "service credit" time was actually with Bayko Gibson, a relatively smaller local firm in Houston which operated very differently from Jones Day.

- Slaughter had shown reluctance to integrate into the Firm-wide GIS group, to participate in GIS activities, and to utilize Firm-wide resources like 6-HELP according to GIS leaders (Crum and White). In contrast, Del Riesgo had been an active participant in the GIS team.

- Del Riesgo was viewed as more service-oriented than Ms. Slaughter in the opinion of all four selectors. This view was especially strong with Cowan and Metts, based on the interviews and on their work experience with Ms. Slaughter. In their view, Slaughter tended to focus too much on the technical aspects of the job. For example, Metts viewed Slaughter as having a "small picture" perspective, that she could do some tasks well but when firm policy or coordination with Firm GIS in Cleveland was involved, her response took too long, was haphazard and often displayed a "blame others" approach; in contrast, he viewed Del Riesgo as having a "take charge" attitude and a "big picture" perspective. Cowan felt that Ms. Slaughter's "vision" in her interview with him was all technical, not service oriented, compared to Del Riesgo who was very service oriented and, in his view, displayed better problem solving skills than Slaughter.

- Service orientation, vision of the IS role in the context of the entire Firm, and ability to be organized and set priorities were very important factors to the selection committee which also favored Del Riesgo over Slaughter, and outweighed Slaughter's technical ability and familiarity with the Houston office. The job description for the GIS Manager emphasizes that the job requires, among others, the ability to set priorities, meet deadlines, have organizational and time-management skills. (See Exhibit 11) Ms. Slaughter's deficiencies in these areas had been noted continuously over her employment with Jones Day, including in the 2002 and 2003 evaluations which the selectors reviewed. (See Exhibit 11) In contrast, Ms. Del Riesgo's evaluations showed dramatic improvement in virtually every category from 2002 to 2003, rising to an overall level of excellence in 2003. (See Exhibit 11)

III. ARGUMENT

Ms. Slaughter's race played no role in any employment decisions involving her at Jones Day. More specifically, her claim that she already held the title of GIS Manager and was therefore demoted is without merit. Furthermore, there simply is no nexus between Ms. Slaughter's race and the fact that she was not selected for the position of GIS Manager in November 2003. In the honest judgment of the selectors, a better qualified person was selected. Likewise, even if one were to view the events as a demotion for purposes of argument, such action was based on legitimate, non-discriminatory reasons related to Ms. Slaughter's work performance.

A. Ms. Slaughter Was Not Demoted

As described above, Ms. Slaughter has always held the title of Technology Support Specialist with Jones Day. It is true that she was the only information systems support person in the Houston office until November 2003 and that may have led to her inclusion in distribution and other lists which included GIS Managers in other offices, and she may even have been referred to as GIS Manager at times. However, Ms. Slaughter knew perfectly well what her job title was by the fact that it appeared on her annual evaluations and elsewhere, and by the fact that she was treated as non-exempt and therefore received substantial amounts of overtime pay in 2001, 2002 and 2003.

Moreover, the change in circumstances in the Houston office, the anticipated move to new offices in November 2003 and the fact that the office had grown significantly since 2001 and was expected to experience further significant growth over the next year, clearly justified the view that the technology needs of the office required a higher level of IS attention and management and therefore the creation of the GIS Manager position in the fall of 2003. This was certainly a far different job from that which existed in January 2001, when Ms. Slaughter began her employment with Jones Day. It is ludicrous to suggest that the Firm management decided to add an unnecessary high salaried person in November 2003 in order to demote Ms. Slaughter.

Finally, and perhaps most importantly, Ms. Slaughter's title, basic job duties and compensation have not changed. As a matter of fact and law, this precludes any conclusion that, as a result of the creation of the job of GIS Manager in Houston and selection of another for that job, Ms. Slaughter was demoted.

B. The Selection of Del Riesgo Over Slaughter for the GIS Manager Position Was Not Based on Racial Discrimination But on Legitimate, Non-discriminatory Business Reasons

As Ms. Slaughter was not demoted, her charge really boils down to an allegation that Jones Day failed to promote her because of her race. This allegation is also without merit.

In accordance with the generic McDonnell Douglas test, a prima facie "failure to promote" case of disparate treatment may be established if the plaintiff shows that (1) s/he is a member of a protected class; (2) s/he sought and was qualified for an available employment position; (3) despite his/her qualifications, s/he was not selected and (4) the employer selected someone not a member of the protected class. Bernard v. Gulf Oil Corp., 890 F.2d 745 (5th Cir. 1989). Once a prima facie case is established, the employer must articulate a legitimate, non-discriminatory reason for the action. St. Mary's Honor Ctr. v. Hicks, 509 U.S. 502, 506-07, 511, 113 S. Ct. 2742 (1993). If the employer makes such a showing, the plaintiff must then prove that the employer's stated legitimate, non-discriminatory reason is really a pretext for discrimination. Id.

In light of Ms. Slaughter's performance deficiencies noted above, when measured against the job description of GIS Manager, Ms. Slaughter likely cannot meet the second prong of the prima facie case --- that she was qualified for the position. Ms. Slaughter's performance from the outset with Jones Day was substandard. She was accustomed to working with a smaller local firm, which understandably did not have the same structure or demands as a large firm like Jones Day, including centralized information technology resources, coordination and management. She did not adapt well to this new environment as evidenced by the recurring problems with participating with the GIS team, communicating, setting priorities, following through on projects and commitments, and other problems related to her lack of organizational ability. These are well documented throughout 2001, 2002 and 2003 as discussed above.

Assuming for purposes of argument that she could meet the prima facie case test, however, there clearly were legitimate non-discriminatory reasons for selection of another candidate. As described above in Section II-C, Ms. Slaughter was not selected because Ms. Del Riesgo was a better qualified candidate in the judgment of each of four selectors and in the view of the North American GIS manager. There is no evidence to suggest that any of these individuals was motivated by racial bias. To the contrary, the reasons stated for the selection were legitimate and non discriminatory. There is simply no evidence to suggest that these reasons were a pretext for illegal discrimination and, therefore, Ms. Slaughter's claim must fail.

C. Assuming for Purposes of Argument that Ms. Slaughter was Demoted in November 2003, Such Action was Justified by Her Prior Work Performance and Was Not Based On Racial Discrimination

A prima facie discrimination case for demotion requires proof (1) that plaintiff was demoted, (2) that he/she was qualified for the position he/she occupied, (3) that he/she was in a protected class and (4) that he/she was replaced by a person outside the protected class. Crawford v. Formosa Plastics Corp., 234 F.3d 899, 902 (5th Cir. 2000). As with failure to promote cases, once a prima facie case is established, the employer must articulate a legitimate, non-discriminatory reason for the action. St. Mary's Honor Ctr. v. Hicks, 509 U.S. 502, 506-07, 511, 113 S. Ct. 2742 (1993). If the employer makes such a showing, the plaintiff must then prove that the employer's stated legitimate, non-discriminatory reason is really a pretext for discrimination and the ultimate burden of persuasion remains with the plaintiff. Id.

Once again, it is doubtful that Ms. Slaughter can make out a prima facie case since her work performance record indicates that she was not qualified for the position of GIS Manager, which is the position she claims to have held despite the compelling evidence to the contrary and thus, is the position from which she claims to have been demoted. (See Sections II-A, II-C, and III-A above) But even if one viewed the events here as constituting a demotion, which we submit they clearly do not, Jones Day would have been justified in taking such action.

Again, Ms. Slaughter's performance from the outset with Jones Day was substandard and well documented throughout 2001, 2002 and 2003. With a person who was struggling when the office had fewer than 50 personnel during 2002 and around 60 in late 2003, it is quite reasonable to see why another person would have been selected for the job and why the incumbent would, if necessary, have been demoted. Of course, the demands of the office increased in part because of work volume but Ms. Slaughter's problems with organizational structure, organization and setting priorities, were present even when the office was less than 50 in 2001.[4]

D. Jones Day's Responses to Ms. Slaughter's Allegations in Her Charge

Ms. Slaughter's allegations and our responses are as follows:

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[4]Ms. Slaughter seems to highlight Mr. Richardson in her charge. He was her supervisor and did author some critical memos and evaluations. However, there is no evidence that he did so out of any racial bias. Mr. Richardson may be a demanding manager, but he has been fair and justified in his criticism. Moreover, it should be noted that the decision to create a GIS Manager and to post the job for competing candidates was made by Mr. Whiting as well as by Mr. Richardson. Furthermore, as noted above, the selection process involved four other people as well as Richardson, all of whom ranked Ms. Slaughter behind the other two candidates.

Allegation 1: "I have worked for the Respondent in its Global Information Services ('GIS') Department since around January 2001. My title was 'GIS Manager.' Before that, I was the Director of Information Technology at Bayko Gibson Hagan & Schoonmaker, LLP, a Houston-based law firm that merged into Jones Day in January 2001."

Response: It is denied that Charging Party's title was GIS Manager. As described above, it was and is Technology Support Specialist. Bayko Gibson combined with Jones Day in January 2001.

Allegation 2: "After the merger, I continued running all the information technology services for the Jones Day Houston office until I was demoted in November 2003."

Response: It is denied that Charging Party was demoted.

Allegation 3: "Around September 18, 2003, the Office Administrator, Kevin Richardson, stated that he was going to bring in a manager for the GIS Department. This was strange, because I was already in the position of 'GIS Manager.' Mr. Richardson urged me not to apply for the position."

Response: It is denied that she was already the "GIS Manager." It is also denied that Mr. Richardson urged her not to apply for the position. On the contrary, Richardson told Ms. Slaughter that the office was creating a GIS Manager position and that she could apply if she were interested and felt qualified.

Allegation 4: "I did apply for the position, which I was already filling. I spoke with a Human Resources representative ahead of time to tell her that I would be listing on my resume that I was already in the position of 'GIS Manager.' I was told not to do so because it would 'ruffle some feathers.' I was told to list my job on the resume as 'Technology Support Specialist.'"

Response: It is denied that Charging Party was already filling this position. While the Human Resource representative does not recall using the words "ruffle some feathers", she did tell Charging Party to list her correct title of Technology Support Specialist on the resume.

Allegation 5: "I was not selected for my position of GIS Manager, which I was already filling."

Response: It is denied that GIS Manager was Charging Party's position or that she was already filling it.

Allegation 6: "Jerri Del Riesgo was then hired as GIS Manager. Previously, she worked in a different Jones Day office and reported to the GIS Manager there."

Response: Admitted except that Ms. Del Riesgo was not "hired" as GIS Manager, as she was already a Jones Day employee and was promoted and transferred to the Houston office when selected for the position.

Allegation 7: "Following her promotion to my job, I was then made to report to Ms. Del Riesgo."

Response: It is denied that Del Riesgo was promoted to "my" (Charging Party's) job.

Allegation 8: "I am African American. Ms. Del Riesgo is white. Mr. Richardson is White."

Response: Admitted.

Allegation 9: "I believe that I have been discriminated against on the basis of my race."

Response: It is denied that Charging Party was discriminated against on the basis of her race.

Allegation 10: "This is in violation of Title VII of the Civil Rights Act of 1964, as amended, and the Texas Commission o Human Rights Act."

Response: It is denied that any violations of law occurred.

Allegation 11: "The Respondent is a law firm based in Cleveland, Ohio, that employs thousands of employees."

Response: It is true that Jones Day Firmwide has thousands of employees but it has no primary "base" as such, although the Cleveland office was its original office and still has the largest number of employees. Currently, as of May 1, 2004, the Houston office has a total of 76 partners and employees.

IV. CONCLUSION

The foregoing aptly demonstrates that, contrary to Ms. Slaughter's allegations, there is no basis for her Charge of race discrimination. Accordingly, unless we hear otherwise from you, we will assume that the information herein is sufficient to issue a no reasonable cause determination. Please direct any further correspondence or communications to the undersigned.

Very truly yours,

David L. Williams

David L. Williams
Firm Human Resources Director and Counsel

Attachments

Exhibit List to Jones Day Position Statement re Slaughter v. Jones Day, EEOC #330-2004-01431

1. Equal Employment Opportunity Policy from Jones Day Firm Manual
2. Staff employment form dated 1/30/01
3. Ava Slaughter's 2001 Staff Performance Evaluation
4. Ava Slaughter's 2002 Staff Performance Evaluation
5. Ava Slaughter's 2003 Staff Performance Evaluation
6. Email from Kevin Richardson to Kari Smidt, 5-24-01
7. Email from Kevin Richardson to Kari Smidt, 6-18-01
8. Counseling report, 7-29-02
9. File memo by Kevin Richardson, 7-29-02
10. Email from Kevin Richardson to Kari Smidt, 8-8-02
11. Package of materials given to GIS Manager selectors, includes GIS Manager job description, and candidates' resumes and 2002 and 2003 evaluations